IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5245 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BHAGVATPRASAD KESHAVLAL THAKER - Petitioner(s)
Versus
LIFE INSURANCE CORPORATION OF INDIA & 2 - Respondent(s)

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Appearance :
MR CN TRIVEDI for Petitioner(s) : 1,
RULE SERVED BY DS for Respondent(s) : 1 - 2.
MR AK CLERK for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 04/09/2006

ORAL JUDGMENT

By way of this petition under Article 226 of the Constitution of India, the petitioner, a retired employee of respondent No.1 initially prayed for an appropriate writ, direction and/or order directing the respondents to make immediate payment of pension from December, 1995

till date of payment and also make payment of pension thereafter regularly with 18% interest. It is required to be noted that subsequently and during the pendency of the present Special Civil Application, an order came to be passed by the respondents in the month of August, 1997 to release the pension with effect from December 1995 till July, 1997 and accordingly, the petitioner was paid the pension from December, 1995 to July, 1997 and thereafter, the petitioner is also paid the pension regularly. Therefore, the short question which is required to be considered by this Court is with regard to interest on delayed payment of pension for the period between December, 1995 to July, 1997.

2. Shri CN Trivedi, learned advocate appearing on behalf of the petitioner has submitted that earlier by order dated 18-12-1995, the Zonal Officer of respondent No.1 passed an order sanctioning the pension for the period between 1-9-1994 to 30-11-1995 amounting to Rs.53,546.51paisa and along with simple interest from the date of retirement to 30-11-1995 amounting to Rs.18,725.77paisa in all Rs.72,272.28paisa. However, all of a sudden and without any further order to withhold the pension, the respondent Corporation stopped the payment

of pension with effect from December 1995 which came to be sanctioned only on service of the notice issued by this Court of the present Special Civil Application and having realized their mistake. Therefore, it is requested to award the interest on the delayed payment of pension for the period between December, 1995 to July 1976 at the rate of 18% per annum.

3. In response to the notice issued by this Court, Shri Abhilash Clerk, learned advocate appeared on behalf of the respondents and an affidavit-in-reply is also filed on behalf of the respondents. It is submitted by him that due to the pendency of the vigilance case as well as pendency of the departmental inquiry, the pension was not paid. He has relied upon provisions of Life Insurance Corporation of India (Employees) Pension Rules, 1995 pertaining to payment of provisional pension. Therefore, it is submitted by him that the respondents were justified in withholding the pension and therefore, it is requested to dismiss the present Special Civil Application.

4. Heard the learned advocates appearing on behalf of the parties.

5. The sole defence on the part of the respondents is that due to pendency of the vigilance case as well as departmental inquiry, the pension was not paid. However, it is required to be noted that even at the time when the order came to be passed by the Zonal Officer on 18-12-1995 sanctioning and making the payment of pension for the period between 1-9-1994 to 30-9-1995, vigilance case as well as departmental inquiry were pending. It is also required to be noted that there was no further order passed by any authority withholding the pension. Even, otherwise considering the Life Insurance Corporation of India (Employees) Pension Rules, 1995 with regard to payment of provisional pension in a case, where the charge sheet has already been issued to an employee, who is in service or a decision has been taken by the disciplinary authority to proceed against the employee but he retired during the pendency of the proceedings, the employee is to be entitled provisional pension which may be equivalent to the full pension. However, he is not required to be allowed to compute any portion of provisional pension. It is the contention on behalf of the respondents that due to the pendency of the vigilance case as well as departmental inquiry, further pension was

not paid to the petitioner after December 1995, however, the said contention cannot be accepted in view of the fact that even when an order came to be passed by the respondents in the month of August, 1997 releasing the pension for the period between December 1995 to July 1997, the departmental inquiry was pending and the same came to be terminated in the year 2000. Under the circumstances, there is no justifiable reasons for the respondents not to release the pension after December 1995. Under the circumstances, the petitioner is entitled to a reasonable rate of interest on the delayed payment.

6. For the reasons as stated above and considering the facts and circumstances of the case, the petition is allowed and it is ordered that the petitioner be paid the interest at the rate of 8% per annum during the period between December 1995 to July 1997. Such an interest on the delayed payment of pension be made by the respondents to the petitioner within a period of three months from the date of receipt of this order. Rule is made absolute to the aforesaid extent. No costs. Direct service is permitted.

(M.R.SHAH,J.)

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